



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 211217-0261]

RIN 0648-BK36

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Lane Snapper Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule modifies catch limits in the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) for lane snapper. The purpose of this final rule and the framework action is to modify the annual catch limit (ACL), to revise an accountability measure (AM), and to achieve optimum yield (OY) for the stock while preventing overfishing. This final rule also makes minor administrative changes to replace outdated NMFS website addresses and language about required software for the Individual Fishing Quota (IFQ) programs. Additionally, this

final rule reopens the harvest of lane snapper for the commercial and recreational sectors as a result of the ACL increase.

DATES: This final rule is effective *[insert date 30 days after date of publication in the **FEDERAL REGISTER**]*, except for amendment number 6 to § 622.41(k), which is effective on *[insert date of publication in the **FEDERAL REGISTER**]*.

The lane snapper commercial and recreational sectors will reopen effective 12:01 a.m., local time, *[insert date of publication in the **FEDERAL REGISTER**]*, until the end of the current fishing year, December 31, 2021.

ADDRESSES: Electronic copies of the framework action, which includes an environmental assessment, and a regulatory impact review, may be obtained from the Southeast Regional Office website at

<https://www.fisheries.noaa.gov/action/framework-action-implement-modification-gulf-mexico-lane-snapper-catch-limits-and>.

FOR FURTHER INFORMATION CONTACT: Dan Luers, Southeast Regional Office, NMFS, telephone: 727-824-5305, email: *daniel.luers@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery, which includes lane snapper, under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and

Management Act (Magnuson-Stevens Act).

On October 18, 2021, NMFS published a proposed rule for the framework action and administrative changes to the IFQ Program and requested public comment (86 FR 57629). The proposed rule and the framework action outline the rationale for the actions regarding Gulf lane snapper contained in this final rule, which is unchanged from the proposed rule. A summary of the management measures described in the framework action, as well as management measures not contained in the framework action, and implemented by this final rule is described below. All weights in the final rule are described in round weight, unless otherwise noted.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the OY from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

Lane snapper in the Gulf EEZ are managed as a single stock with a stock ACL of 301,000 lb (136,531 kg) that has not changed since implemented in 2012 (76 FR 82044; December 29, 2011). This stock ACL is based on average

landings from 1999 through 2008. The fishing year is January 1 through December 31, each year.

In 2019, in response to landings data that indicated lane snapper experienced overfishing in 2017 and exceeded its ACL in 2018, the Council requested that the NMFS Southeast Fisheries Science Center provide an updated, interim analysis on the lane snapper stock to include landings data from 2015-2018. However, the updated analysis used recreational catch estimate values that were calculated using effort and landings information from the previous Marine Recreational Information Program (MRIP) Coastal Household Telephone Survey (CHTS) and the Access Point Angler Intercept Survey. The CHTS has since been replaced by the newer MRIP Fishing Effort Survey (FES). Thus, as requested by the Council's Scientific and Statistical Committee (SSC), an updated analysis was provided in 2020 (SEDAR 49 Update [2020]) that converted the recreational data used to calculate the estimated catch limits for lane snapper to values directly comparable to those collected through MRIP-FES.

The conversion to MRIP-FES values resulted in an approximate doubling of recreational catch and effort estimates. Thus, based on the results of the SEDAR 49 Update (2020) and the conversion to MRIP-FES, the SSC recommended increasing the overfishing limit from 358,000 lb (162,386 kg) to 1,053,834 lb (478,011 kg), and

increasing the acceptable biological catch (ABC) from 301,000 lb (135,531 kg) to 1,028,973 lb (466,734 kg). In the framework action, the Council adopted the SSC's recommendations.

Despite landings exceeding the lane snapper ACL each year from 2016 through 2020, NMFS closed the harvest of lane snapper only once, in 2019, under the current AM, which requires a closure when the ACL is met or projected to be met during the year following an ACL overage (84 FR 68058; December 13, 2019). Therefore, the Council is modifying the AM in this final rule to require an in-season closure in any year during which NMFS projects that the ACL is met.

In the 2020 fishing year, lane snapper landings exceeded the stock ACL by 57,638 lb (26,144 kg). Therefore, consistent with the current AM, NMFS monitored landings in 2021 and closed the harvest of lane snapper on October 18, 2021, after determining that the ACL would be reached by that date (86 FR 54657; October 4, 2021). The ACL increase implemented through this final rule will allow NMFS to reopen harvest of lane snapper until the end of the current fishing year, December 31, 2021.

Management Measures Contained in this Final Rule

This final rule modifies the ACL for the Gulf lane snapper stock. It also modifies the AM to require NMFS to implement a closure during the current fishing year if

landings meet or are projected to meet the revised ACL.

Annual Catch Limit

This final rule increases the lane snapper stock ACL from 301,000 lb (136,531 kg) to 1,028,973 lb (466,734 kg).

Accountability Measure

This final rule modifies the AM such that if annual landings in a given year reach or are projected to reach the revised ACL, NMFS will implement a seasonal closure to prohibit harvest of lane snapper by the commercial and recreational sectors for the remainder of the fishing year.

Measures Codified in this Final Rule Not in the Framework Action

In addition to the other measures contained in the framework action and as explained in the proposed rule, this final rule also corrects the NMFS Southeast Regional Office website address in the two sections of the regulations that specify permit requirements and make several administrative changes to NMFS's IFQ Program regulations.

Comments and Responses

NMFS received a total of 21 comments on the proposed rule for the framework action. NMFS acknowledges the comments in favor of the actions in the proposed rule and agrees with them. Some comments suggested changes to lane snapper management measures that were outside the scope of the proposed rule and framework action, such as increasing

the minimum size limit, or implementing sector allocations. These comments are not addressed further in this final rule. Specific comments related to the proposed rule and the framework action are grouped by topic and addressed below.

Comment 1: NMFS should increase the lane snapper ACL but not as much as proposed.

Response: NMFS disagrees that the ACL should not be increased as much as proposed. As explained previously, the current ACL of 301,000 lb (136,531 kg) has been in effect since 2012, and is based on average landings from 1999 through 2008. The ACL implemented through this final rule is based on new information provided in the SEDAR 49 Update (2020), which indicated that the Gulf lane snapper stock size had increased and includes the MRIP-FES data. The conversion to MRIP-FES data accounts for approximately half of the increase in the ACL. Thus, after the conversion, the increase implemented in this action is slightly less than a doubling of the current catch limits. The increase in the stock ACL is also consistent with the Council's SSC recommended ABC.

Comment 2: NMFS should not implement an increase in the Gulf lane snapper ACL because lane snapper is not prevalent in some areas, the stock is just starting to improve its health, and NMFS was required to close harvest of lane snapper in in October 2021.

Response: NMFS, in collaboration with the Council, made decisions on the lane snapper catch limits based on the most recent data on the stock status. Although the population of lane snapper in certain areas may not appear to have increased, NMFS has determined that the stock size of lane snapper has increased substantially Gulf-wide. The increase in the stock ACL for lane snapper is consistent with the result of the SEDAR 49 Update (2020), which is the best scientific information available, and the recommendation of the Council's SSC.

The inseason closure of Gulf lane snapper in October 2021 was based on the stock ACL in place prior to the publication of this final rule, not on any change in the stock's status. The increase in the ACL implemented through this final rule is based updated information on the size of the Gulf lane snapper stock and allows NMFS to reopen harvest to the commercial and recreational sectors through the end of the current fishing year. Therefore, NMFS disagrees that the recent inseason closure provides a basis to reject the increase in ACL recommended by the Council.

Reopening of the Lane Snapper Commercial and Recreational Sectors for the 2021 Fishing Year

For Gulf lane snapper, the stock ACL of 301,000 lb (136,531 kg) has been used for stock management prior to the implementation of this rule. Also, the AM effective prior to the publication of this final rule, as specified

in 50 CFR 622.41(k), stated that if the sum of the commercial and recreational lane snapper landings exceeds the stock ACL during a fishing year, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, NMFS is required to close the commercial and recreational sectors for the remainder of that fishing year. In the 2020 fishing year, lane snapper landings exceeded the stock ACL by 57,638 lb (26,144 kg). For the 2021 fishing year, NMFS determined that the ACL in place at the time would be reached by October 18, 2021, and published a temporary rule that closed the fishing season for lane snapper in the Gulf EEZ through December 31, 2021 (86 FR 54657; October 4, 2021).

The new ACL of 1,028,973 lb (466,734 kg) implemented through this final rule, is effective upon publication in the **Federal Register**. Therefore, in accordance with 50 CFR 622.8(c), NMFS reopens the Gulf lane snapper fishing season through December 31, 2021, to provide the opportunity for commercial and recreational fishers to harvest the new stock ACL.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the framework action, the FMP, other provisions of the Magnuson-Stevens Act, and

other applicable laws. NMFS issues the reopening pursuant to section 305(d) of the Magnuson-Stevens Act. That action is taken under 50 CFR 622.8(c), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act.

NMFS finds good cause under 5 U.S.C. 553(b) (B) to waive prior notice and an opportunity for public comment on the action to reopen harvest of lane snapper, as notice and comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulation at 50 CFR 622.8(c) has already been subject to notice and public comment, and all that remains is to notify the public that additional harvest of lane snapper is available under the new ACL, and therefore, that the commercial and recreational sectors will reopen. Such procedures are contrary to the public interest because the fishing year ends on December 31, 2021, and notice and comment would not allow harvest to reopen before that time, which would reduce the social and economic benefits of this rule and the ability to achieve OY.

NMFS also finds good cause under 5 U.S.C. 553(d) (3) to waive the 30-day delay in the effective date for these regulations because delaying implementation of the ACL increase and reopening is contrary to the public interest. A delay in effectiveness is contrary to the public interest because it would not allow additional harvest before the end of 2021.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995. A description of this final rule, why it is being considered, and the purposes of this final rule are contained in the preamble and in the **SUMMARY** section of this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that the modifications to the lane snapper ACL and AM, and administrative changes to NMFS's IFQ Program regulations would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Annual catch limit, Fisheries, Fishing, Gulf,
Individual fishing quota, Lane snapper, Quota, Reef fish.

Dated: December 17, 2021.

Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part
622 is amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND
SOUTH ATLANTIC**

1. The authority citation for part 622 continues
to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Effective [*insert date 30 days after date of
publication in the **FEDERAL REGISTER***], in § 622.4, revise
the fifth sentence in paragraph (g)(1) to read as follows:

§ 622.4 Permits and fees—general.

* * * * *

(g) * * *

(1) * * * Application forms and instructions for renewal are available online at <https://www.fisheries.noaa.gov/southeast/resources-fishing/permits-applications-and-forms-southeast> or from the RA (Southeast Permits Office) at 1-877-376-4877, Monday through Friday between 8 a.m. and 4:30 p.m., eastern time.

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3. Effective [*insert date 30 days after date of publication in the **FEDERAL REGISTER***], in § 622.20, revise the third sentence in paragraph (a)(1)(ii) to read as follows:

§ 622.20 Permits and endorsements.

(a) * * *

(1) * * *

(ii) * * * The application form and instructions are available online at <https://www.fisheries.noaa.gov/southeast/resources-fishing/permits-applications-and-forms-southeast>. * * *

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4. Effective [*insert date 30 days after date of publication in the **FEDERAL REGISTER***], in § 622.21:

a. Revise the second sentence in paragraph (a)(3)(i);

b. Revise the third sentence in paragraph (b)(1); and

- c. Revise the first sentence in paragraphs (b) (11) (i) and (b) (11) (ii) (A) introductory text.

The revisions read as follows:

§ 622.21 Individual fishing quota (IFQ) program for Gulf red snapper.

(a) * * *

(3) * * *

(i) * * * The computer must have current, up-to-date browser software installed, which may be downloaded from the Internet for free. * * *

* * * * *

(b) * * *

(1) * * * An owner of a vessel with a commercial vessel permit for Gulf reef fish, who has established an IFQ account for Gulf red snapper as specified in paragraph (a) (3) (i) of this section, online via the NMFS IFQ website *<https://secatchshares.fisheries.noaa.gov/>*, may establish a vessel account through that IFQ account for that permitted vessel. * * *

* * * * *

(11) * * *

(i) * * * A current participant in the red snapper IFQ program must complete and submit the application for an IFQ Account that is available on the website *<https://secatchshares.fisheries.noaa.gov/>*, to certify status as a U.S. citizen or permanent resident

alien. * * *

(ii) * * *

(A) To establish an IFQ account, a person must first complete the application for an IFQ Account that is available on the website *<https://secatchshares.fisheries.noaa.gov>*. * * *

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5. Effective [*insert date 30 days after date of publication in the **FEDERAL REGISTER***], in § 622.22:

- a. Revise the second sentence in paragraph (a)(3)(i);
- b. Revise the third sentence in paragraph (b)(1); and
- c. Revise the first sentence in paragraph (b)(11)(i).

The revisions read as follows:

§ 622.22 Individual fishing quota (IFQ) program for Gulf groupers and tilefishes.

(a) * * *

(3) * * *

(i) * * * The computer must have current, up-to-date browser software installed, which may be downloaded from the Internet for free. * * *

* * * * *

(b) * * *

(1) * * * An owner of a vessel with a commercial vessel permit for Gulf reef fish, who has established an IFQ account for the applicable species, as specified in paragraph (a)(3)(i) of this section, online via the NMFS

IFQ website <https://secatchshares.fisheries.noaa.gov>, may establish a vessel account through that IFQ account for that permitted vessel. * * *

* * * * *

(11) * * *

(i) A current participant in the Gulf grouper and tilefish IFQ program must complete and submit the application for an IFQ Account that is available on the website <https://secatchshares.fisheries.noaa.gov>, to certify status as a U.S. citizen or permanent resident alien. * * *

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6. Effective [*insert date of publication in the **FEDERAL REGISTER***], in § 622.41, revise paragraph (k) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(k) *Lane snapper*. If the sum of the commercial and recreational landings, as estimated by the SRD, reaches or is projected to reach the stock ACL, as specified in this paragraph (k), the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of the fishing year. The stock ACL for lane snapper is 1,028,973 lb (466,734 kg), round weight.

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